

MANUFACTURED HOME RECOVERY FUND

- FACT SHEET -

The Manufactured Home Recovery Fund (Fund) administered by the Department of Housing and Community Development (HCD) is a source of **last resort recovery** for purchasers or sellers of a manufactured home who have lost money as the result of failure to honor warranties or guarantees, fraud, willful misrepresentation, or conversion. "Conversion" means the unlawful appropriation of the property of another. Eligible victims may recover their actual and direct losses up to a maximum of \$40,000. The Fund is financed from one-time fees collected from mobilehome/manufactured home dealers and salespersons and a fee collected on each sale of a mobilehome or manufactured home.

WHO CAN FILE A CLAIM AGAINST THE FUND?

- The buyer or seller of a manufactured home to be used for a personal or family residence, or for investment purposes, bought or sold on or after January 1, 1985, and
- Who has sued the alleged wrongdoer and obtained a final civil judgment; **OR**
- Whose claim is against an alleged wrongdoer, licensed by HCD, which is or has been subject to bankruptcy proceedings.

ADDITIONAL REQUIREMENTS FOR PAYMENT OF A CLAIM:

1. A claim based on a civil judgment (which may be against any person who is a buyer or seller of a manufactured home, not just an HCD licensee) may be filed if the following additional requirements are met:
 - a. The claim must be filed within one (1) year from the date of the final judgment;
 - b. The judgment must be based on one of the following wrongful acts:
 - **failure to honor warranties or guarantees, or**
 - **fraud, or**
 - **willful misrepresentation of the kind or quality of the product sold or purchased; or**
 - **conversion**
 - c. The applicant must have executed on the judgment or present evidence that applicant has made reasonable attempts to collect on the judgment and found the defendant to be judgment proof (**a person who lacks the financial resources necessary to satisfy a judgment for damages or whose wages or property is protected from judicial attachment by law**).
2. A claim based on a sale to, or a purchase from, an HCD licensee who has filed for bankruptcy may be filed if the following additional requirements are met:
 - a. The claim must be filed with HCD within one (1) year of the termination of bankruptcy proceedings or one (1) year from the date of sale (i.e., close of escrow for dealer sales; or payment of the sales price, or execution of a sales contract and delivery), whichever event occurs later; and
 - b. The claim must be based on the same wrongful acts as listed in 1.b., above.

HOW MUCH CAN BE RECOVERED? The maximum payment allowed with respect to one sales transaction on a new or used manufactured home is the lesser of \$40,000 or the amount of "actual and direct loss." "Actual and direct loss" means out-of-pocket losses as a result of the transaction and may include court costs and reasonable attorney's fees, if the claim is based on a judgment. Attorneys' fees and court costs are limited to no more than 15% of the judgment amount. A person who purchases or sells a manufactured home for an investment purpose may receive payment from the Fund only once.

Claim forms and instructions are available from the Department's Sacramento Office or at the Department's website (www.hcd.ca.gov). To receive an application, you may write to us at:

**STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS
MANUFACTURED HOME RECOVERY FUND
P. O. BOX 31
SACRAMENTO, CA 95812-0031**

OR TELEPHONE: (916) 323-9801 or TOLL FREE 1-800-952-5275

FACTS TO BEAR IN MIND WHEN FILING A CLAIM WITH THE RECOVERY FUND:

1. Except in the case of an HCD licensee's bankruptcy, a final judgment must be obtained even if the buyer or seller is out of business.
2. If the buyer or seller has filed bankruptcy, you must file a Proof of Claim with the United States Bankruptcy Court unless instructed not to file a Proof of Claim by the Bankruptcy Court.
2. The total amount of a claim cannot exceed the amount of "actual and direct loss" which remains unpaid from any source.
3. "Actual and direct losses" include out-of-pocket monetary losses, but do not include punitive damages or emotional distress damages.
4. **Claims need not be prepared by an attorney.** Legal representation is permitted but is not necessary or required to file a claim. The Fund will not pay attorney fees in connection with the preparation of a claim.
5. As a condition of any payment from the Fund, you will be required to assign to the Department your judgment or any rights you have to collect from the bankrupt seller/purchaser.

WHAT TO DO IF YOU HAVEN'T YET OBTAINED A JUDGMENT AGAINST THE BUYER OR SELLER OF YOUR MANUFACTURED HOME.

If the buyer/seller isn't the subject of bankruptcy proceedings, you will need to obtain a civil judgment against him/her/it. If your out-of-pocket losses are less than \$5,000, or you are willing to limit your potential collection to \$5,000, you may file a Small Claims Court action. If the buyer/seller is a licensed mobilehome dealer, you may sue even if he/she/it is no longer in business. Small Claims Court is an easy procedure, and the parties may NOT use an attorney. Many counties have clinics available to help parties use Small Claims Court.

You may also engage an attorney. Because many attorneys may not know of the existence of the MHRF, please show this fact sheet to them. Knowing that there may be a monetary source to recover from may be a deciding factor as to whether it is economically feasible for the attorney to pursue your claim in court.

An attorney will be able to advise you if you have a viable claim, as you must sue someone within the statute of limitations (a deadline set by law) for the particular cause of action.